

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STAHL SPECIALTY COMPANY

Employer

And

Case No. 17-RC-12451

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS UNION LOCAL 541 1/

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 2/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 3/

All full-time and regular part-time production employees, maintenance employees, warehouse employees, and drivers employed by the Employer at its facilities located at 111 East Pacific, Kingsville, Missouri and 1301 Stahl Drive, Warrensburg, Missouri, including operators, processors, transfer employees, cell leaders, team leaders, furnace attendants, maintenance employees, facilities maintenance employees, weekend setup employees, plant technicians, product inspectors, material testers, chemical testers, tool engage inspectors, millwrights, electricians, shipping and receiving employees(including forklift drivers, material handlers, and shipping clerk coordinators), food service employees, machinists, tool crib attendants, heat-treatment employees, and inventory analysts, but EXCLUDING office clerical employees, professional employees, confidential employees, engineers, buyers, customer service employees, contract shuttle drivers, supervisors, and guards as defined in the Act, and all other employees.

**DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

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engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

## INTERNATIONAL BROTHERHOOD OF TEAMSTERS UNION LOCAL 541

### LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. **Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **N.L.R.B. v. Wyman-Gordon Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned/Officer-in-Charge of the Subregion who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, 8600 Farley Street - Suite 100, Overland Park, Kansas 66212-4677 on or before **Monday, September 18, 2006**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **Monday, September 25, 2006**.

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, D.C. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: [www.nlr.gov](http://www.nlr.gov).

Dated September 11, 2006

at Overland Park, Kansas

/s/ D. Michael McConnell  
Regional Director, Region 17

1/ The name of the Petitioner appears as amended by the parties' stipulation at the hearing, memorialized in Board Exhibit 2.

2/ The Employer is engaged in the operation of an aluminum foundry from its facilities at 111 East Pacific in Kingsville, Missouri, and 1301 Stahl Drive in Warrensburg, Missouri, the only facilities involved herein. In the past year, the Employer, in the conduct of its business operations, purchased and received goods directly from sources located outside the State of Missouri valued in excess of \$50,000. During that same time frame, the Employer sold and shipped goods valued in excess of \$50,000 to customers located outside the State of Missouri.

3/ **THE ISSUE AND DETERMINATION**

The Parties are in agreement that the appropriate Unit should include classifications in the production, maintenance, and the warehouse departments, as well as drivers.<sup>4</sup> More specifically, the Parties stipulate that the following is an appropriate Unit:

All full-time and regular part-time production, maintenance and warehouse employees and drivers employed by the Employer, including operators, processors, transfer, cell leaders, team leaders, furnace attendants, maintenance, facilities maintenance, weekend setup, plant technicians, product inspectors, material testers, chemical testers, tool engage inspectors, millwrights, electricians, shipping and receiving (including forklift drivers, material handlers, and shipping clerk coordinators), food service, machinists, tool crib attendants, heat treatment, and inventory analysts, but EXCLUDING office clerical employees, professional employees, supervisors, confidential employees, and guards as defined in the Act, engineers, buyers, customer service, and all other employees.

However, the Parties do not agree on whether the Unit should be employer-wide, including the employees at both the Kingsville and Warrensburg facilities, as argued by the Petitioner,

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<sup>4</sup> An issue arose at the hearing concerning whether several "shuttle drivers" should be included or excluded from the Unit. The Employer contended that the shuttle drivers should not be included because they are employed by a third party contractor, not the Employer. During the hearing, the Petitioner indicated that if the shuttle drivers were not employees of the Employer, they would not seek their inclusion in the Unit, but if they were employed by the Employer, they should be included. The evidence in the record supports the conclusion that the shuttle drivers are employed by a third party contractor, not by the Employer. I will therefore exclude the shuttle drivers from the Unit found appropriate.

or whether only two single-facility units are appropriate, as urged by the Employer. I find that an employer-wide unit of the 500 employees at the Employer's Kingsville, Missouri facility and the 200 employees at the Employer's Warrensburg, Missouri facility is presumptively appropriate, and that the Employer has failed to rebut the appropriateness of an employer-wide unit.

### **STIPULATIONS**

The Parties were able to reach several stipulations based on Employer Exhibit 1, a multi-page organizational chart, concerning the exclusion of particular classifications of employees. First, the Parties stipulated that the following individuals exercise supervisory authority on behalf of the Employer and should therefore be excluded from the Unit: Dr. Franz Eckl, President; Danny Sechrest, Industrial Engineering Document Control Supervisor; Michael Hawes, Controller/Purchasing; Stephen Lucas, Human Resources Manager; Steve Williams, Plant Manager Kingsville North; Rich Bennett, Plant Manager Kingsville South; Chris Connell, Quality Assurance Manager; Dick Kneip, Marketing & Sales Manager; Al Peterson, Plant Manager Warrensburg; Randy Rhodes, Health & Safety Manager; Mark Collins, Engineering/Tooling Manager; J.R. Gudde, Tool Room/Steel Cell Manager; Ed Courtney, NC Programming Supervisor; Phil Ismael, Inventory Control Manager; Robert Downs, General Accounting Manager; Ken McAninch, MIS Manager; Russell Baker, Procurement & Supply Manager; Mitch Billingsley, Facilities Manager; Bill Gardiner, Kingsville North Machining Manager; Chris Johnson and Bob Bridge, Operation "A" Shift Supervisor; Dennis Crawford and Kevin Howard, Operation "B" Shift Supervisors; Shane Parsons, Operation "C" Shift Supervisor; "Vacancy," Manufacturing Engineering Manager; Rich Himes, Maintenance Supervisor; Jeff Miller, Area Manager Kingsville South; Tony Germano, Area Manager

Kingsville North; David Kephart, Foundry Maintenance Manager; Brandon Harrison, Customer Service/Product Launch/Outsourcing; Adam Patrick, “C” Shift Supervisor; David Dunlap, “A” Shift Supervisor; Scott Bundren, “B” Shift Supervisor; Duane Milburn, Split Shift “C” & “A” Supervisor; Steve Belanger, “A” Shift Supervisor; Kevin Morris, “C” Shift Supervisor; Catherine Ray, Shipping & Receiving KV; Jeff Sargent, “A” Shift Supervisor Foundry; Jeff Miller, “B” Shift Supervisor Foundry; Jerry Helms, “C” Shift Supervisor Foundry; Frank DeHart, Supervisor Foundry Support; Clifford Brown, Core Room Supervisor; Steve Muse, Maintenance Coordinator; Jim Skidmore, Assistant Manager Kingsville South; Trevor Brandes, Machining Supervisor; Dan George and Scott Smithson, Processing/HT Supervisor; Derrick DeHart, Quality Assurance Supervisor KVS; Carla Hanson, Quality Systems Supervisor; Chris Chambers, Quality Assurance Supervisor KVN; George Waddle, Acting Quality Assurance Supervisor Warrensburg; Karl Jaeger and Tom Browning, Account Manager; “Vacancy,” Field Account Manager; Bob Braun and Bart Alml, Foundry Area Manager; Jerry Wallace and Brian Lankford, 1<sup>st</sup> Shift Supervisor; Ronny Sproat and Ritchie Myers, 2<sup>nd</sup> Shift Supervisor; Gene Mankini and John McBride, 3<sup>rd</sup> Shift Supervisor; Jimmy Eckhoff, Machining Supervisor; Mitch Thornley, Maintenance Manager; and “Vacancy,” Maintenance Supervisor.<sup>5</sup> I find, based on the Parties’ stipulation that the above-named individuals, and the individuals who will occupy the currently vacant positions, can hire, fire and discipline employees, or effectively recommend such actions, or can

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<sup>5</sup> Employer Exhibit 1 lists employee Richardo Soloman as an Operation “A” Shift Supervisor in the Kingsville Machining Department, along with stipulated supervisors Chris Johnson and Bob Bridge. While acknowledging that Johnson and Bridge are supervisors in the Machining Department, the Union does not agree that Richardo Soloman is a supervisor, and instead, believes him to be a lead man. In conformance with Employer’s Exhibit 1, the Employer contends that Soloman is a supervisor. The record is devoid of evidence about Soloman’s duties, other than his title, and therefore I am unable to determine his status. Therefore, if Richardo Soloman appears to vote, he may vote subject to challenge.

independently direct employees' work, and that they are therefore supervisors within the meaning of Section 2 (11) of the Act, and will be excluded from the Unit.

The Parties further stipulated that the following individuals, in the following classifications are office clerical employees and should therefore be excluded from the Unit: Barry Whiting, Reporting/Scheduling Order Administration; Margie Jones, Administrative Assistant; Christi Jackson, Accounts Receivable/Billing; Daren Hobbs and Barb Fix, Accounts Payable; Karen Sturgis, Payroll Administration; Jean Thomason and Teresa Meredith, Accountant; Wayne Hadley and Adam Hunt, Buyer; Connie Swopes, Purchasing Expeditor and Assistant/Safety; Neil Brunner, Raw Materials Buyer; David Reader, Buyer-Warrensburg; Sheila Pigman, Sales Administrator; Shawn Farrell, Cost Estimator; and Oliver Howitt, Continuous Improvement Coordinator.<sup>6</sup> I find, based on the stipulation of the parties that the above-named individuals are excluded from the Unit as office clerical employees.

Next, the Parties reached a stipulation that the following individuals, in the following classifications, are professional employees or engineers and should be excluded from the Unit: Theresa Roscher, Occupational Health Nurse; Darrell Hill and Rich Andriano, Special Projects; Pat Gard, Bruce Evans and John Simmons, Foundry Engineer; "Vacancy," General Maintenance/Preventative Maintenance Controls Engineer; Herb Tate, Supplier QA Engineer; and Brian Lohman, Metallurgist. I find, based on the stipulation of the parties that the above-named individuals are excluded from the Unit as professional employees or engineers.

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<sup>6</sup> The Union asserts that the Data Entry Clerk, Rhonda Norvell listed on Employer's Exhibit 1, who works at the Kingsville North Plant, is an office clerical employee and should be excluded from the Unit. The Employer would include the position of Data Entry at the Kingsville North Plant as a plant clerical employee. The record is devoid of evidence pertaining to Norvell's status or duties, and I am therefore unable to determine whether she is an eligible voter. Should Rhonda Norvell appear to vote, she may vote subject to challenge.

The next stipulation concerned individuals the Parties agreed should be excluded from the Unit as confidential employees: Melody Wood, HR Administrator Warrensburg; Jeanne Adams HR Administrator Kingsville; and Shantae Joseph, Insurance & Benefits Coordinator. I find, based on the stipulation of the parties that the above-named individuals are excluded from the Unit as office confidential employees.

Finally, the Parties stipulated that the following individuals, in the following classifications are customer services employees, and should not be included in the Unit: Daryl Scrutchfield, Scheduling KVN Foundry; Kaelyn Christian, KVN Machining/HT; Kevin Gross, Rick Fizer and Jim Holmes, Customer Service/Scheduling/Reporting/Product Launch/Outsourcing; Ralph Gonzalez, Customer Service/Product Launch/Outsourcing; and Renee Page, Scheduling Foundry, Machining WB. I find, based on the stipulation of the parties that the above-named individuals are excluded from the Unit as customer service employees.

### **THE FACTS**

The Employer's business involves the casting and machining of diverse aluminum parts for various customers at its two facilities, in Kingsville and Warrensburg, Missouri. The Kingsville facility is the larger of the two facilities and is also the corporate headquarters for the Employer's operations. The Kingsville facility employs approximately 500 employees in the classifications stipulated to be appropriate by the Parties. The town of Kingsville has a population of only 256 people. As such, many of the employees working at the Kingsville facility are drawn from the surrounding communities of Warrensburg and Knob Knoster, Missouri. There are three foundries, a machining department, a shipping and receiving department, and a restaurant at the Kingsville facility, as well as administrative offices.

The Warrensburg facility is located 26 miles from the Kingsville facility. While Warrensburg's population is about 15,000, the Warrensburg facility is the smaller of the two facilities, with only 200 employees in the classifications the parties have stipulated should be included in the appropriate Unit. The Warrensburg facility is comprised of a foundry, a small machining department, a shipping and receiving department, warehouse storage, and administrative offices. There is no history of collective-bargaining at either facility.

The Kingsville corporate headquarters controls the labor policies for both the Kingsville facility and the Warrensburg facility. Each plant has separate supervision handling daily personnel matters, including hiring, work assignment, discipline, and termination. However the foregoing decisions are overseen by management at corporate headquarters. Employees at both facilities are paid pursuant to the same wage scale, covering the same classifications of work. The Employer's general labor wage scale has grades numbered 1 through 10. The Employer also has a technical wage scale, with grades 1 through 8. Employees at both facilities receive the same health benefits and 401(k) plan. Corporate employment policies are promulgated by the Human Resources Department and are posted at both the Kingsville and Warrensburg facilities. For instance, the Employer recently posted notices at both Warrensburg and Kingsville concerning an upcoming vote on system-wide changes to the Employer's 401(k) plan, and changes to the policies regarding posting of personal items on the Employer provided bulletin boards.

Not only were the changes to the 401(k) plan submitted to vote of all of the Employer's employees, the changes to the plan were formulated by a joint employee committee comprised of employees from both the Warrensburg and Kingsville facilities; the joint employee committee considered a proposed increase to the employee 401(k) plan. During these



committee discussions, there was consideration of whether the employees would prefer an increase in hourly wages in lieu of the increase to the 401(k) plan. The notice placed on bulletin boards at both facilities announced a vote on the 401(k) issues, as framed by the joint employee committee. The Employer also established a joint ergonomics committee comprised of employees from both the Warrensburg and Kingsville facilities. The three Warrensburg and nine Kingsville employees on this committee established the 50 pound weight lifting limit policy that applies to employees at both facilities.

While employees for each facility are interviewed and hired locally, orientation training for all employees, including quality assurance, safety, and EEO training, is conducted at the Kingsville facility. Additionally, in initial meetings with potential employees, the Warrensburg managers may try to steer potential employees toward the Kingsville facility if that facility is closer to that potential employee's residence.

Many of the Employer's administrative services are housed at the Kingsville facility and service both the Kingsville and Warrensburg facilities. The record shows that the Kingsville facility houses the Employer's Health, Safety and Environment Department; the Engineering and Tooling Department; the Finance Department; the Quality Assurance Department; the Sales Department; the Information Technology Department; the Payroll Department; and the Accounting Department. The Finance Department has one employee, buyer David Reader, who works at the Warrensburg location. The Sales Department also has one Sales Manager assigned to work at the Warrensburg facility, but that position appears to be currently vacant. Finally, there are also Quality Assurance employees working at both the Kingsville and Warrensburg facilities. Workers' Compensation issues for employees at both Kingsville and

Warrensburg are handled through the corporate Health, Safety and Environmental Department located in Kingsville.

The fabrication of aluminum parts is done through use of fabricating machines and molds that are inserted into those machines. There are two type of fabricating machines, the tilt machine and the rotary machine. Most of the fabrication machines used at both Warrensburg and Kingsville are manufactured at the Kingsville facility. The molds, which are also manufactured in Kingsville, are inserted into the fabrication machines, where they are filled with aluminum by using a ladle. On the tilt fabricating machines, the ladling of aluminum is done by hand by an employee. On the rotary machine, the ladling is performed automatically by the machine. The rotary machines operate at a higher speed and generally produce smaller, lighter parts. The tilt machines operate more slowly and produce larger, heavier parts, some weighing upwards of 200 pounds. The Warrensburg facility houses more rotary machines than the Kingsville facility, and as such, produces more of the smaller aluminum castings than are produced at the Kingsville facility. The skills for operating the rotary machines and the tilt machines are fundamentally the same, and employees operating the machines are paid at the same classification levels.

Most of the parts produced on the rotary machines in Warrensburg are for use in the automotive industry. These aluminum castings, due to stringent automotive industry requirements, must adhere to strict quality control standards. As such, frequent maintenance of the molds by the Warrensburg operators and cell leaders is required to maintain the strict tolerances required by the automotive customers. However, the same skills used to perform maintenance on the molds used in the rotary machines in Warrensburg are used by the operators on the tilt machines in Kingsville, but on a less frequent basis.

Because of the relative size of the Warrensburg machine shop, the Kingsville facility is called on to perform machining on about 5% of the castings produced at the Warrensburg facility. Those parts are routinely shipped from Warrensburg to Kingsville through use of third party shuttle drivers. *See footnote 4.* Parts and supplies are also routinely sent from Kingsville to Warrensburg, including saw blades, Cal lube, and buffer pads. Provision of these parts and supplies by the Kingsville facility is essential for the continued operation of the Warrensburg facility. These parts and supplies are shuttled between the facilities by supervisors or stipulated Unit employees as needed, sometimes on a daily basis. Some of the production and maintenance equipment needed by stipulated Unit employees is also only available at the Kingsville facility, and if needed at Warrensburg facility, must be transported from Kingsville to Warrensburg. For instance, the maintenance shop in Warrensburg does not have a pipe-threading machine. If the Warrensburg maintenance employees need to thread pipes, the machine has to be sent over from Kingsville. This happens at least once a month. The Warrensburg plant also does not have a large fork truck that is necessary to move very heavy equipment. The Kingsville facility provides their fork truck as needed for use in Warrensburg. Additionally, molds are shipped back to Kingsville for retooling when they require more than the everyday maintenance provided by the operators and cell leaders during fabrication. Not only do the plants share some of their parts, supplies and equipment, over the years, machines and molds for various products produced for customers have also been transferred back and forth from Kingsville and Warrensburg, based on production requirements, including a step for John Deere, the Quadra steer assembly for GM, an oil pan for Caterpillar, a Cummins flywheel, and a barbeque grill.

For years, notices for employment vacancies in Warrensburg and Kingsville have been posted at both facilities; the record is replete with evidence of employees bidding and transferring from facility to facility. For example, witness Baxter Armstrong, a 13 year employee at the Warrensburg facility, recalled 45 specific transfers from one of the Employer's facilities to the other during the years he has worked for the Employer, with some employees transferring back and forth from plant to plant several times. While there is evidence that each plant maintains a separate seniority list, Greg Brisbin, who himself bid on and was awarded a transfer to the Kingsville facility while working at the Warrensburg facility, maintained his seniority after his transfer.

There is evidence that in February 2006, the Employer instituted a new policy that employees would no longer be allowed to bid on and transfer to jobs outside of their respective facilities. However, the record evidence indicates that this policy, which was not reduced to writing or disseminated to employees, has not been consistently applied. Thus, in August 2006, 28 Warrensburg employees were laid off for lack of work. Those employees were offered permanent transfers to the facility in Kingsville. Additionally, via a "Joint Stipulation Regarding Supplement to the Record," executed by the Parties' legal representatives, and received in the Regional Office via facsimile on September 1, 2006, the Parties stipulated to the introduction of limited supplemental evidence after the formal hearing closed. The two documents the Parties stipulated should be added to the record are notices that were posted by the Employer. Union Exhibit 2 dated August 30, 2006, was posted at the Warrensburg facility on August 30, 2006, and announced additional layoffs in Warrensburg beginning on September 3, 2006. The second notice, Employer Exhibit 4, was posted at both facilities on August 31, 2006. In both notices, the Employer offered employees laid off from

the Warrensburg facility temporary transfers, based on their bids on open positions at the Kingsville facility. The notices further informed Warrensburg employees that they would be entitled to return to their jobs at Warrensburg as openings occurred. Based on the Parties' explicit stipulation, the record has been reopened to receive Union's Exhibit 2 and Employer's Exhibit 4.

The record evidence establishes the transfer of employees between the two facilities based on job bids, and the record further establishes that several employees work at both facilities on a regular basis. For instance, Chris McCloud, the Employer's calibration technician, handles calibration for all of the gauges that require calibration at both Kingsville and Warrensburg. Employee Tim Steinmeyer has duties related to foundry furnace maintenance at both facilities. Employee Shawn Kench is responsible for welding the molds at the Warrensburg facility. However, due to training needs and lack of necessary equipment at the Warrensburg facility, Bond is sporadically required to travel from Warrensburg to Kingsville to perform his work. Non-Unit Foundry Engineer Rusty Bond frequently moves from facility to facility to perform his work. Finally, non-Unit employee Danny Sechrest performs time studies on the Employer's fabrication machinery. Sechrest travels to both of the Employer's facilities to perform his time studies.

Due to production and quality standards, it has also been the practice over the years for employees from one facility to be temporarily assigned to work at the other facility. In keeping with this practice, in January or February of 2006, the Employer discovered that many of the Cummins fuel bodies that had been cast in Warrensburg and shipped to Kingsville might have defects. In order to check the parts, Unit employees from Warrensburg were temporarily assigned to drive to Kingsville, to manually sort through each casting, taking

measurements to verify the quality of each casting. This task was performed by an employee from each shift and took several days to complete. About two years ago, Linn Shumate, an employee in the tool room at Kingsville, was temporarily assigned to Warrensburg to assist the Warrensburg employees with the transfer of a product from Kingsville to Warrensburg. Similarly, seven or eight years ago, Dave Corwin, an employee in the Kingsville tool room, came to the Warrensburg facility to train operators and cell leaders on how to maintain molds. Eventually, Corwin transferred permanently to the Warrensburg facility when they opened a small tool room. During past layoffs, or during slow times, the Employer has also used laid-off employees to temporarily help at the other facility. For instance, several years ago, Warrensburg employees Hubert White, Wes Iames and Brian Purington all repeatedly volunteered to help out at the Kingsville facility when the Employer needed help there and work was slow at the Warrensburg facility.

### **THE ANALYSIS**

The Parties are in agreement that when the Petitioner seeks an employer-wide production and maintenance unit, such a unit is presumptively appropriate, and that it is the Employer's burden to overcome the presumption. *Greenhorne & O'Mara, Inc.*, 326 NLRB 514 (1998); *Hazard Express, Inc.*, 324 NLRB 989 (1997); *Montgomery County Opportunity Board, Inc.*, 249 NLRB 880 (1980); *Jackson's Liquors*, 208 NLRB 807, 808 (1974); *Western Electric Co.*, 98 NLRB 1018 (1952). The single-facility presumption is not applicable where, as here, the Petitioner seeks a multi-facility unit. *NLRB v. Carson Cable TV*, 795 F.2d 879 886-887 (9th Cir. 1986); *Capital Coors Co.*, 309 NLRB 322 (1992). The Parties do not agree, however, whether the Employer has succeeded in rebutting the presumptive appropriateness of the petitioned for Unit. The Act does not require the Board to establish the "most" appropriate

bargaining unit. The unit need only be "an" appropriate unit. *Dezcon, Inc.*, 295 NLRB 109, 111 (1989).

The Board looks to the following criteria in determining whether a petitioned-for multi-facility unit is appropriate: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *Alamo Rent-a-Car*, 330 NLRB 897 (2000), citing *NLRB v. Carson Cable TV*, 795 F.2d at 884; *Verizon Wireless*, 341 NLRB 483 (2004).

Applying the Board's analytical framework, I find that the field employees at both the Kingsville and Warrensburg facilities have identical job classifications, perform the same basic work, using the same types of tools, under very similar working conditions. The skills used by both groups of employees are the same. While the Employer claims that there is some difference in dexterity required for operation of the rotary machines versus the tilt machines, the record does not reflect that any such differences are significant, particularly where the Employer does not screen for dexterity skills, nor does it differentiate in wages paid to employees for operation of the two types of fabricating machines.

The record also confirms that the employees' terms and conditions of employment are indistinguishable. There is centralized control over wage rates, fringe benefits, work rules, and work policies and procedures. There is some discretion by the local managers in the range of pay that may be paid in a particular pay grade, but that discretion is insignificant, where the pay grades and the classifications subject to those pay grades are established by centralized management. While the Employer also points to the fact that the Kingsville facility has a restaurant, and the Warrensburg facility does not, that fact is not of major

consequence where so many other terms and conditions of employment are identical for both groups.

The Union asserts and the Employer acknowledges that the Board has not generally required evidence of frequent employee interchange in support of a multi-facility unit, based on the presumption of appropriateness. However, the evidence of employee interchange in the instant case is more than adequate, whether required or not. The evidence shows considerable temporary and permanent employee transfers between the Warrensburg and Kingsville facilities over the years. Such evidence clearly supports employee interchange under the Board's typical analysis. I am cognizant, however, that the record indicates that from February to August 2006, the Employer attempted to curtail employee transfers between facilities. However, that policy change was short-lived. The Employer's operations appear to necessitate the flexibility to allow transfers between the facilities. As such, during two layoffs at the Warrensburg facility in August and September 2006, the Employer suspended the no-transfer policy, and allowed permanent transfers to the Kingsville facility for those Warrensburg employees laid off in August, and temporary transfers for those Warrensburg employees laid off in September. The history of routine transfers and the continuing transfers, despite the Employer's purported policy change, sustains a finding of employee interchange sufficient to uphold Petitioner's employer-wide unit request. Additionally, not only do the job transfers between the Kingsville and Warrensburg facilities support a finding of employee interchange, so does the evidence of routine work performed by employees of one facility at the other facility without benefit of an "official" permanent or even temporary transfer. This concurrent work assignment is significant in finding employee interchange to support a multi-facility unit.



The record clearly shows significant functional integration of the Employer's Kingsville and Warrensburg facilities. The two facilities share common management, centralized administration of health and safety, engineering and tooling, finance, sales, payroll, accounting and information technology. The plants share supplies and equipment, as well as responsibility for production of certain parts. The record as a whole indicates that the Warrensburg facility is dependent upon the Kingsville facility, because Kingsville provides not only the supplies necessary for Warrensburg to maintain production, but also provides all of Warrensburg's human resources, sales, mold making/maintenance, and steel fabrication. Such functional integration between the facilities supports the conclusion that the petitioned for employer-wide Unit is appropriate.

Similarly, the geographic proximity of the Kingsville and Warrensburg facilities indicates that the petitioned for Unit is appropriate. The 26 mile distance between the plants is not of such a distance to present any obstacle to employee participation in Union activities. The fact that many of the employees working in Kingsville reside in Warrensburg, and that employees have regularly bid to transfer from plant to plant over the years supports the assessment that the distance is no impediment to employee interaction.

Most day-to-day labor relations are handled by the local supervision at each facility. However, this local control of daily labor relations issues is undercut by the fact that Warrensburg and Kingsville supervisors and managers decisions are subject to review by the corporate managers located in Kingsville. Additionally, significant labor relations matters, such as wages, benefits, and work policies and practices are established by corporate management. As such, the localized control of routine daily labor relations is not sufficient to overcome the overwhelming evidence supporting the appropriateness of the requested unit.

Finally, while not dispositive, the Petitioner's wish to represent an employer-wide unit should be accorded some weight, especially where there is no history of collective bargaining at either the Kingsville or Warrensburg facilities, and where the Unit is otherwise appropriate.

*NLRB v. Metropolitan Life Insurance Co.*, 380 U.S. 438 (1965)

In conclusion, I find that the Employer has not met its burden to overcome the presumption that the Petitioner's employer-wide production and maintenance unit request is appropriate. Thus, while the Employer may have shown that the single facility units it seeks are also appropriate, it has not established that the employer-wide unit sought by the Petitioner is inappropriate. Accordingly, I will therefore direct an election in the Petitioner's requested Unit.